

Amendment No. 1 to HB1324

Harmon
Signature of Sponsor

AMEND Senate Bill No. 957*

House Bill No. 1324

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-3-101, is amended by adding the following language as a new subsection:

(d) All terrain vehicles may be registered with the department in accordance with Section 7 of this act. For purposes of this subsection, "all terrain vehicle" means either:

(1) A motorized flotation-tire vehicle with no less than four (4) low-pressure tires, but no more than six (6) low-pressure tires, that is limited in engine displacement to one thousand cubic centimeters (1,000 cc) or less and in total dry weight to less than one thousand five hundred pounds (1,500 lbs.), and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control; or

(2) A motorized vehicle with not less than four (4) non-highway tires, nor more than six (6) non-highway tires, that is limited in engine displacement to one thousand cubic centimeters (1,000 cc) or less and in total dry weight up to two thousand pounds (2,000 lbs.) and that has a non-straddle seating and a steering wheel.

SECTION 2. Tennessee Code Annotated, Section 55-4-111(a)(1), is amended by adding the following language:

Class (H)	All terrain vehicles – registration fee.....	\$11.25
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SECTION 3. Tennessee Code Annotated, Section 55-4-202(a), is amended by adding the following language as a new subdivision:

(19) All terrain vehicle as defined in § 55-3-101(d);

SECTION 4. Tennessee Code Annotated, Section 55-4-203(a), is amended by adding the following language as a new subdivision:

(15) All terrain vehicle as defined in § 55-3-101(d), pursuant to § 55-4-111(a)(1) Class (H) and as provided for in Section 7;

SECTION 5. Tennessee Code Annotated, Section 55-4-209, is amended by adding the following language as a new, appropriately designated subdivision:

() "All terrain vehicle plate" or "all terrain vehicle license plate" means those motor vehicle registration plates, as enumerated in § 55-4-202(a)(19) and described in Section 7 of this act, that are issued to all terrain vehicles as defined in § 55-3-101(d);

SECTION 6. Tennessee Code Annotated, Section 55-4-210, is amended by adding the following language as a new subsection thereto:

(f) The department is authorized to design and issue, or to authorize a designee to issue:

(1) All terrain vehicle plates for all terrain vehicles registered by residents of Tennessee. Notwithstanding any other provision of law to the contrary, an all terrain vehicle plate shall be nonrenewable and nontransferable and shall become invalid when the vehicle for which it was issued is sold, the ownership of the vehicle is transferred, or the vehicle is dismantled; and

(2) All terrain vehicle temporary permits in lieu of plates for all terrain vehicles registered by nonresidents; provided, however, that a nonresident may apply directly to the department for an all terrain vehicle plate. An all terrain vehicle temporary permit shall be valid for thirty (30) days.

SECTION 7. Tennessee Code Annotated, Title 55, Chapter 4, is amended by adding the following language as a new section:

§ 55-4-____.

(a)

(1) An owner or lessee of an all terrain vehicle who is a resident of Tennessee shall be issued an all terrain vehicle license plate authorized for all terrain vehicles by § 55-4-210(f) upon:

(A) Compliance with the applicable provisions of chapters 1-3, this chapter, and chapters 5 and 6 of this title, including applications for title, and with rules promulgated by the department; and

(B) Payment of a fee equal in amount to eleven dollars and twenty-five cents (\$11.25).

(2) Eight dollars (\$8.00) of the fee imposed by subdivision (1) of this subsection shall be apportioned in the following manner:

(A) Five dollars (\$5.00) of the fee shall be placed into the dedicated fund established pursuant to Section 9;

(B) One dollar (\$1.00) of the fee shall be paid to the Tennessee association of rescue squads;

(C) One dollar (\$1.00) shall be paid to Tennessee comprehensive regional pediatric centers; and

(D) One dollar (\$1.00) shall be paid to and administered by the Tennessee chapter of the American Academy of Pediatrics to continue Early Periodic Screening, Diagnosis and Treatment (EPSDT) provider services.

(b)

(1) An owner or lessee of an all terrain vehicle who is a not a resident of this state, upon complying with rules promulgated by the department and paying both a fee equal in amount to four dollars (\$4.00) and a fee equal to the cost of

designing and manufacturing the permit, shall be issued an all terrain vehicle temporary permit authorized for all terrain vehicles by § 55-4-210(f); provided, however, that in the event the temporary permit is issued through the offices of the county clerks of the state an additional fee of two dollars (\$2.00) shall be imposed and retained by the clerks as compensation for services.

(2) The four dollar (\$4.00) fee imposed by subdivision (1) of this subsection shall be apportioned in the following manner:

(A) Two dollars and fifty cents (\$2.50) of the fee shall be placed into a dedicated fund as provided in subdivision (a)(2)(A);

(B) Fifty cents (50¢) of the fee shall be paid to the Tennessee association of rescue squads;

(C) Fifty cents (50¢) shall be paid to Tennessee comprehensive regional pediatric centers; and

(D) Fifty cents (50¢) shall be paid to the Tennessee chapter of the American Academy of Pediatrics.

(c) No motor vehicle taxes authorized by § 5-8-102 may be imposed upon an all terrain vehicle that is operated or driven upon a highway in accordance with Section 8 of this act.

SECTION 8. Tennessee Code Annotated, Title 55, Chapter 8, is amended by adding the following language as new, appropriately designated sections:

§ 55-8-____.

(a) All terrain vehicles registered pursuant to Section 7 of this act may be operated or driven upon a highway in accordance with subsection (b) below, but no all terrain vehicle shall be operated on any:

(1) Highway that is a part of the interstate and defense highway system;

or

(2) Highway having more than two (2) lanes, except for the purpose of crossing such highway if:

(A) The crossing is made at an angle of approximately ninety (90) degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(B) The vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;

(C) The operator yields his or her right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and

(D) Both the headlight and taillight are illuminated when the crossing is made if the vehicle is so equipped.

(b) An all terrain vehicle may, for the purpose of crossing from one (1) road, field or area of operation to another, be operated upon any road, street or highway. An all terrain vehicle may also be operated on any road, street or highway having two (2) lanes or less that connects to businesses for the specific purpose of acquiring fuel, food or shelter, for a distance not to exceed five (5) miles, if:

(1) The vehicle is operated at a speed of twenty-five miles per hour (25 m.p.h.) or less;

(2) Such road, street or highway is designated by a municipality or county and marked in accordance with the following:

(A) The governing body of a municipality may regulate in any manner or prohibit, by lawfully enacted ordinance, the operation of all terrain vehicles upon any street, road or highway solely under the municipality's jurisdiction; provided, that such municipality provides written notification to the department of safety prior to the effective date of the ordinance and posts appropriate signage designating such street, road or

highway for all terrain vehicle use. A municipality may charge a fee to an operator of an all terrain vehicle, no more than twenty-five dollars (\$25.00) annually, for the use and marking of any such street, road, or highway;

(B) The governing body of any county may by lawfully enacted resolution regulate or prohibit the operation of all terrain vehicles on any street, road or highway solely under the county's jurisdiction; provided, that such county provides written notification to the department of safety prior to such resolution becoming effective and posts appropriate signage designating such street, road or highway for all terrain vehicle use. A county may charge a fee to an operator of an all terrain vehicle, no more than twenty-five dollars (\$25.00) annually, for the use and marking of any such street, road, or highway; and

(C) Homeowner associations may petition the local legislative body for an ordinance or resolution to regulate or prohibit the operation of all terrain vehicles upon any street, road or highway within the area regulated by the homeowner association. Appropriate signage shall be posted designating the areas where such vehicles may be operated;

(3) The vehicle is operated only between one-half (1/2) hour after sunrise and one-half (1/2) hour before sunset, and the headlight and taillight shall be illuminated during such operation;

(4) The number of passengers on such vehicle does not exceed the manufacturers' recommendations;

(5) Passengers must be at least twelve (12) years of age. Any passenger under the age of eighteen (18) shall be tall enough that their feet can touch the

ground when straddling the seat or saddle of a vehicle as provided in Section 55-3-101(d)(1), and shall wear a helmet;

(6) Any passenger under the age of eighteen (18) shall only ride in a vehicle as provided in Section 55-3-101(d)(2) that has a roll bar and such passenger shall wear a certified safety helmet, eye protection and a seat belt;

(7) Every person riding an all terrain vehicle upon a roadway pursuant to this act is subject to all of the duties applicable to the driver of a motor vehicle by chapter 8, part 1 and chapter 10, parts 1-5 of this title, except as to those provisions that by their nature can have no application.

(8)

(A) Except as provided in subdivision (B), the operator of an all terrain vehicle shall wear a helmet while driving or operating such vehicle.

(B) Persons using an all terrain vehicle while hunting shall not be required to wear a helmet;

(9) The vehicle is equipped with a manufacturer-installed or equivalent spark arrester and a manufacturer-installed or equivalent muffler in proper working order and properly connected to the vehicle's exhaust system; and

(10) The operator shall:

(A) Be at least eighteen (18) years of age and possess a valid driver license from this state or an equivalent license from another state;

(B) Ensure that all passengers comply with § 55-9-302; and

(C) Otherwise comply with the provisions of this chapter.

(c) Any person or entity renting or leasing all terrain vehicles for recreational purposes shall provide helmets conforming to § 55-9-302 to all users.

(d) All terrain vehicle use is prohibited in state parks and state natural areas.

(e) A violation of subsections (a) - (d) is a Class C misdemeanor.

(f) State and local government agencies are encouraged to make forestry fire roads that are posted for four-wheel drive vehicles, currently being used by other licensed vehicles in locations where the areas are managed, available for use by all terrain vehicles. Such government agencies are also encouraged to coordinate with local counties and municipalities to make such right-of-ways available for all terrain vehicle tourism and allow access to these remote areas by the disabled and the elderly.

(g) This section shall not apply to the operation of an all terrain vehicle on any private or public recreational trail or area, or affiliated trail or area operated by a person or entity which has in place a safety program.

§ 55-8-____.

(a) Any authorized person operating an all terrain vehicle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway, except under any of the following situations:

(1) When overtaking and passing another vehicle proceeding in the same direction;

(2) When preparing for a left turn at an intersection or into a private road or driveway; or

(3) When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right-hand curb or edge. For purposes of this section, "substandard width lane" means a lane that is too narrow for an all terrain vehicle and another vehicle to travel safely side by side within the lane.

(b) Persons riding all terrain vehicles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of

all terrain vehicles. Persons riding two (2) abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(c) The operator of a motor vehicle, when overtaking and passing an all terrain vehicle proceeding in the same direction on the roadway, shall leave a safe distance between the motor vehicle and the all terrain vehicle of not less than three feet (3') and shall maintain the clearance until safely past the overtaken all terrain vehicle.

SECTION 9. Tennessee Code Annotated, Title 55, Chapter 4, is amended by adding the following language as a new section:

§ 55-4-____.

(a) Five dollars (\$5.00) from each fee collected pursuant to Section 7 shall be placed into a dedicated fund. This dedicated fund shall be administered by the department of environment and conservation, which may use up to ten percent (10%) of the revenue each fiscal year for staff and other expenses to administer the fund. The dedicated fund shall be available to make grants or loans to state, federal, or local governments and to non-profit organizations in order to carry out the purposes of this chapter, including, but not limited to, the purposes of acquiring a fee simple or other interest in real property, the construction of all terrain vehicle trails, and the maintenance of existing all terrain vehicle trails. Any such grants shall be divided equally among the three (3) grand divisions of the state. Provided, however, after the department of environment and conservation notifies local governments and other agencies and non-profit organizations of the availability of such grants, if there are no applications from a grand division, then the department may award additional grants to recipients in the other grand divisions. In administering the grants or loans authorized in this section the commissioner may set the requirements for applications, the criteria for awarding them, and the conditions for the receipt of the funds as deemed appropriate to protect the public interest.

(b) Any unencumbered moneys and any unexpended balance of the fund remaining at the end of any fiscal year shall not revert to the general fund, but shall be carried forward and maintained in separate accounts until expended in accordance with the provisions of this part.

(c) Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund, allocated proportionately to each separate account.

(d) Moneys in the fund shall be invested by the state treasurer for the benefit of the fund pursuant to Section 9-4-603. The fund shall be administered by the commissioner.

SECTION 10. The department of environment and conservation, in cooperation with the department of tourism and the department of economic and community development, is directed to study and develop a plan for the promotion and development of adventure tourism and other recreational and economic development activities in rural areas of Tennessee. Such study and plan shall be developed within existing departmental resources. The departments are directed to consider natural areas, best available science, existing recreational opportunities, economic conditions, including but not limited to persistent high unemployment, safety and environmental issues and community interest in developing such plan. Such plan shall identify those areas of the state where those activities currently exist and could easily be developed and should include recommendations on whether and to what extent existing laws should be amended in order to encourage development of adventure tourism in Tennessee. The departments are authorized to promulgate rules and regulations in order to effectuate the purposes of this act.

SECTION 11. As used in this act, unless the context otherwise requires:

(1) "Adventure tourism" means outdoor recreational opportunities such as equine and motorized trail riding, white-water rafting and kayaking, rappelling, rock climbing, hang-gliding, spelunking and other such activities;

(2) "Adventure tourism area" means an area identified by the department as an appropriate region for the promotion and development of adventure tourism;

(3) "Adventure tourism district" means a defined geographic area identified and approved by a two-thirds vote of a local governing body as an area where the promotion of adventure tourism is encouraged;

(4) "Department" means the department of environment and conservation;

(5) "Hang-gliding" means an air sport in which a pilot flies a light and un-motorized aircraft launched by foot;

(6) "Kayaking" means the use of a kayak for navigations of waterways; (7) "Local governing body" means the elected legislative body of a municipal, metropolitan or county government;

(8) "Motorized trail riding" means the exploration of trails and natural areas by use of all terrain vehicles;

(9) "Rappelling" is the controlled descent down a rope by climbers used to explore cliffs or slopes that are too steep to descend without protection;

(10) "Rock climbing" means the recreational sport of climbing up or across natural rock formations;

(11) "Spelunking" means the recreational sport of exploring noncommercial cave systems; and

(12) "White water rafting" means the recreational activity of using an inflatable raft to navigate rough water.

SECTION 12. The department shall, prior to July 1, 2011, identify geographic regions of the state where promotion and development of adventure tourism is suitable. The department shall identify for each area the appropriate types of recreational activities suitable to the region and shall recommend rules and regulations to apply within appropriately designated adventure tourism districts.

SECTION 13. When the department has identified suitable areas of the state for the promotion of adventure tourism, a local governing body, may, by a two-thirds vote of its governing body, authorize the creation of a district within the boundaries of such governing body as an adventure tourism district. Alternatively, one (1) or more counties or one (1) or more municipalities may enter into an intergovernmental agreement pursuant to title 12, chapter 9, part 1, to designate jointly an adventure tourism district that contains area within the boundaries of more than one (1) local government.

SECTION 14. The department of tourism and the department of economic and community development are encouraged to work together cooperatively to develop and provide resources, including, but not limited to technical assistance, geographic information systems resources, grants, loans and tax incentives to encourage the development of adventure tourism within those regions of the state designated as suitable for such activities and where there exists persistent high unemployment.

SECTION 15. Tennessee Code Annotated, Section 55-8-185, is amended by adding the following as a new, appropriately designated subsection:

(j) In addition to the provisions above, an all terrain vehicle as defined in § 55-3-101(d) may be operated or driven upon any streets, roads or highways designated for such purpose and included within the boundaries of an adventure tourism district established pursuant to Section 13 of this act.

SECTION 16. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2011, the public welfare requiring it.